

From the INTERNATIONAL BUREAU

PCT

NOTIFICATION OF TRANSMITTAL
OF COPIES OF TRANSLATION
OF THE INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY
(CHAPTER I OR CHAPTER II
OF THE PATENT COOPERATION TREATY)
(PCT Rules 44bis.3(c) and 72.2)

To:

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JAPON



Date of mailing (day/month/year)
28 September 2006 (28.09.2006)

Applicant's or agent's file reference
PH-2257-PCT

IMPORTANT NOTIFICATION

International application No.
PCT/JP2005/003094

International filing date (day/month/year)
18 February 2005 (18.02.2005)

Applicant
ITSUKI CO., LTD. et al

1. Transmittal of the translation to the applicant.

The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter I).

The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter II).

2. Transmittal of the copy of the translation to the designated or elected Offices.

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following designated or elected Offices requiring such translation:

None

The following designated or elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

AE, AG, AL, AM, AP, AT, AU, AZ, BA, BB, BG, BR, BW, BY, BZ, CA, CH, CN, CO, CR, CU, CZ, DE, DK, DM, DZ, EA, EC, EE, EG, EP, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, KE, KG, KP, KR, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MK, MN, MW, MX, MZ, NA, NI, NO, NZ, OA, OM, PG, PH, PL, PT, RO, RU, SC, SD, SE, SG, SK, SL, SM, SY, TJ, TM, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM, ZW

3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability (Chapter II).

It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned within the applicable time limit (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.

The International Bureau of WIPO
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PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference PH-2257-PCT	FOR FURTHER ACTION		See item 4 below
International application No. PCT/JP2005/003094	International filing date (<i>day/month/year</i>) 18 February 2005 (18.02.2005)	Priority date (<i>day/month/year</i>) 27 February 2004 (27.02.2004)	
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237			
Applicant ITSUKI CO., LTD.			

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).
2. This REPORT consists of a total of 6 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I	Basis of the report
<input type="checkbox"/>	Box No. II	Priority
<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input checked="" type="checkbox"/>	Box No. VI	Certain documents cited
<input type="checkbox"/>	Box No. VII	Certain defects in the international application
<input type="checkbox"/>	Box No. VIII	Certain observations on the international application

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

	Date of issuance of this report 19 September 2006 (19.09.2006)
The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No. +41 22 338 82 70	Authorized officer Masashi Honda e-mail: pt08@wipo.int

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

PCT
TRANSLATION

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

(PCT Rule 43bis.1)

		Date of mailing (day/month/year)
Applicant's or agent's file reference PH-2257-PCT		FOR FURTHER ACTION See paragraph 2 below
International application No. PCT/JP2005/003094	International filing date (day/month/year) 18.02.2005	Priority date (day/month/year) 27.02.2004
International Patent Classification (IPC) or both national classification and IPC		
Applicant ITSUKI CO., LTD.		

1. This opinion contains indications relating to the following items:

- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/JP	Authorized officer
Facsimile No.	Telephone No.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

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PCT / JP2005/003094

Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 This opinion has been established on the basis of a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material
 a sequence listing
 table(s) related to the sequence listing
 - b. format of material
 in written format
 in computer readable form
 - c. time of filing/furnishing
 contained in the international application as filed.
 filed together with the international application in computer readable form.
 furnished subsequently to this Authority for the purposes of search.
3. In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.	PCT / JP2005/003094
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Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement																			
<p>1. Statement</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%;">Novelty (N)</td> <td style="width: 60%;">Claims <u>2, 5, 9</u></td> <td style="width: 20%;">YES</td> </tr> <tr> <td></td> <td>Claims <u>1, 3, 4, 6-8</u></td> <td>NO</td> </tr> <tr> <td style="width: 20%;">Inventive step (IS)</td> <td style="width: 60%;">Claims <u>2, 5, 9</u></td> <td style="width: 20%;">YES</td> </tr> <tr> <td></td> <td>Claims <u>1, 3, 4, 6-8</u></td> <td>NO</td> </tr> <tr> <td style="width: 20%;">Industrial applicability (IA)</td> <td style="width: 60%;">Claims <u>1-9</u></td> <td style="width: 20%;">YES</td> </tr> <tr> <td></td> <td>Claims _____</td> <td>NO</td> </tr> </table>			Novelty (N)	Claims <u>2, 5, 9</u>	YES		Claims <u>1, 3, 4, 6-8</u>	NO	Inventive step (IS)	Claims <u>2, 5, 9</u>	YES		Claims <u>1, 3, 4, 6-8</u>	NO	Industrial applicability (IA)	Claims <u>1-9</u>	YES		Claims _____	NO
Novelty (N)	Claims <u>2, 5, 9</u>	YES																		
	Claims <u>1, 3, 4, 6-8</u>	NO																		
Inventive step (IS)	Claims <u>2, 5, 9</u>	YES																		
	Claims <u>1, 3, 4, 6-8</u>	NO																		
Industrial applicability (IA)	Claims <u>1-9</u>	YES																		
	Claims _____	NO																		
<p>2. Citations and explanations:</p> <p>The following documents are cited in the ISR:</p> <p>Document 1: WO, 00-49875, A1 (Kureha Chemical Industry Co., Ltd.), 31 August, 2000 (31.08.00), the claims, test examples, page 7, lines 21-27, & JP, 2003-89612, A</p> <p>Document 2: JP, 5-91869, A (Yukishitsu Hiryo Seibutsu Kassei Ryo Gijutsu Kenkyu Kumiai), 16 April, 1993 (16.04.93), the claims, examples, [0010]</p> <p>Document 3: JP, 6-133763, A (Showa Denko K.K.), 17 May, 1994 (17.05.94), the claims, examples, [0016]</p> <p>Document 4: JP, 2001-346407, A (K.K. TS Shokubutsu Kenkyusho), 18 December, 2001 (18.12.01), the claims, examples</p> <p>Document 5: WO; 03-46157, A1 (Kumiai Chemical Industry Co., Ltd.), 5 June, 2003 (05.06.03), the claims, examples, page 6, & EP, 1449914, A1, & US, 2004-265292, A1, & JP, 2003-219863, A</p> <p>Document 6: JP, 2-209803, A (Kureha Chemical Industry Co., Ltd.), 21 August, 1990 (21.08.90), the claims, examples, page 2, upper right column, lines 18 and 19</p> <p>Document 7: JP, 2003-289854, A (Yugen Kaisha Miroku Technology), 14 October, 2003 (14.10.03), the claims, examples, [0021]</p> <p>Document 8: JP, 10-146187, A (Asada Shoji K.K.), 2 June, 1998 (02.06.98), the claims, examples, [0001]</p> <p>Document 9: JP, 5-51305, A (Sumitomo Chemical Co., Ltd.), 2 March, 1993 (02.03.93), the claims, examples, [0016]</p> <p>Document 10: JP, 2003-277210, A (Mitsui Chemicals, Inc.), 2 October, 2003 (02.10.03), the claims, examples, [0024]</p> <p>Claims 1, 3, 4 and 6-8 The subject matters of claims 1, 3, 4 and 6-8 do not appear to be novel or to involve an inventive step in view of documents 1-5. Each of documents 1-5 describes agents and methods for controlling plant diseases to control phytopathogenic bacteria or fungi by means of bacteria that belong to the genus <i>Bacillus</i>.</p>																				

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Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

Claims 1, 4 and 6-8

The subject matters of claims 1, 4 and 6-8 do not appear to be novel or to involve an inventive step in view of documents 6-10.

Each of documents 6-10 describes agents and methods for controlling plant diseases to control phytopathogenic fungi by means of bacteria that belong to the genus *Bacillus*.

Claims 2, 5 and 9

Specific strains of a bacterium that belongs to the genus *Bacillus*, and the controlling agents to control phytopathogenic diseases by means of the said strains, both as described in claims 2 and 9, are not described in any of the documents cited in the ISR, or any of the documents that appear to be relevant to that invention, nor obvious to a person skilled in the art.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/JP2005/003094

Box No. VI	Certain documents cited		
1.	Certain published documents (Rule 43bis.1 and 70.10)		
	Application No. Patent No.	Publication date (day/month/year)	Filing date (day/month/year)
	JP 2005-145 A E, X	06.01.2005	23.06.2003
			Priority date (valid claim) (day/month/year)
			14.04.2003
2.	Non-written disclosures (Rule 43bis.1 and 70.9)		
	Kind of non-written disclosure	Date of non-written disclosure (day/month/year)	Date of written disclosure referring to non-written disclosure (day/month/year)